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14
15 **IN THE UNITED STATES DISTRICT COURT**
16 **FOR THE DISTRICT OF ARIZONA**

17 IN RE: Bard IVC Filters Products
18 Liability Litigation

No. 2:15-MD-02641-DGC

19 **UPDATED STATUS REPORT**

(Assigned to the Honorable David G.
Campbell)

20 In Case Management Order No. 48, the Court ordered the parties to submit an
21 updated status report addressing the 217 dismissed cases previously identified to the Court
22 in which the plaintiffs had not signed a release or opted out of the settlement (the "217
23 Cases"). As directed by the Court, Freese & Goss and Matthews & Associates ("FG/MA")
24 submit the following updated information regarding the 217 Cases for the Court's
25 consideration:

26 **I.**

27 FG/MA has worked diligently since December 4, 2020 to locate, make contact
28 with, and secure settlement decisions from, plaintiffs. As a result of that work, the status
of the 217 Cases is becoming increasingly refined and category numbers continue to shift.
For example, heirs have been identified for over half of the 43 plaintiffs that had
previously been categorized as "Deceased With No Known Heirs" and those cases have
been moved into the "Decided," "Considering" or "Non-Responsive" categories based on
the result of communication efforts. As missing plaintiffs were located, non-responsive
plaintiffs were determined to be deceased, or plaintiffs from any category became non-

responsive, their classifications were updated and the category numbers changed accordingly.

Of the 217 Cases that were identified to the Court on December 4, 2020, seventeen (17) plaintiffs have since made settlement decisions and have been removed from the chart below. The current status of the remaining 200 dismissed cases is summarized in the following chart and discussed in greater detail in the following paragraphs:

	Oct. 23, 2020	Dec. 4, 2020	Jan. 26, 2021
Considering the settlement	99	24	20
Deceased with no known heirs	43	43	21
Nonresponsive to inquiries	78	111	114
Not able to be located	107	39	45
TOTAL	327	217	200

Plaintiffs Who Have Made Settlement Decisions: In the seven weeks since December 4, 2020, FG/MA has been able to obtain settlement decisions from 17 plaintiffs. Of those 17 plaintiffs, 13 have accepted the settlement¹ and 4 have chosen to opt-out of the settlement.²

Plaintiffs Considering the Settlement: Since December 4, 2020, FG/MA has secured settlement decisions in 3 of the 24 cases involving dismissed plaintiffs who were still considering the settlement. An additional 11 plaintiffs that had been listed in the "considering" category have been non-responsive to efforts by FG/MA to reach them by telephone, text, voicemail, email and/or correspondence and have been recategorized as non-responsive. Ten (10) plaintiffs are still considering the settlement.

To the ten plaintiffs who remain considering the settlement, an additional ten cases have been added that had previously been in other categories. More specifically, FG/MA succeeded in contacting or locating heirs for ten plaintiffs that had previously been

¹ Settlement releases have been received from six plaintiffs. The other seven plaintiffs have verbally accepted the settlement and have represented to Plaintiffs' Counsel that the releases will be promptly executed and returned.

² The four plaintiffs who opted-out did so after December 4, 2020 and so were not previously reported to the Court. They should be added to the Reinstatement Chart.

1 categorized as "Non-Responsive" or "Deceased With No Known Heirs." Those ten
2 plaintiffs/heirs are currently considering the settlement offer and have been added to the
3 "Considering" category.

4 Deceased Plaintiffs With No Known Heirs: Since December 4, 2020, FG/MA has
5 identified heirs for 25 of the 43 plaintiffs previously identified to the Court as "deceased
6 without known heirs". Contact has been made with four heirs of deceased plaintiffs: two
7 have verbally communicated their acceptance of the settlement (releases have not yet been
8 received) and two others are currently considering the settlement. In 21 cases, FG/MA
9 believes it has identified and located heirs for deceased plaintiffs but those heirs have not
10 responded to FG/MA's efforts to contact them by telephone, text, voicemail, email and/or
11 correspondence: those 21 cases have been recategorized as non-responsive.

12 To the 18 cases that remained in the deceased category, three were added after
13 FG/MA determined that the plaintiffs in three cases that had been categorized as "Non-
14 Responsive" had passed away.

15 Plaintiffs Who Are Non-Responsive to Inquiries: Over the past seven weeks,
16 FG/MA was able to make contact with 23 of the 111 plaintiffs whose cases had been
17 categorized as "Non-Responsive." Of those 23 plaintiffs: 9 accepted the settlement and
18 have executed or are in the process of executing releases, 3 have chosen to opt out, 3 were
19 determined to be deceased and 8 are presently considering the settlement. An additional
20 8 plaintiffs were reclassified as "not able to be located" after it was determined that
21 contact information in FG/MA's files was no longer correct.

22 Despite FG/MA making progress on 31 of the 111 cases previously in the non-
23 responsive category, the total number of cases in the category has grown by 3 because
24 cases from the "Unable to be Located" (2 cases), "Considering" (11 cases) and "Deceased"
25 (21 cases) categories were recategorized as "Non-Responsive."

26 Plaintiffs Who Are Not Able to Be Located: FG/MA (assisted by lead
27 counsel/referring counsel) has been able to locate just 2 of the 39 plaintiffs previously
28 identified as "Not Able to be Located." Although contact information was found for those

1 two plaintiffs, to date, they have not responded to FG/MA's phone calls, emails, texts, or
2 letters. Those two plaintiffs have been reclassified as "Non-Responsive."

3 Eight individual who were previously believed to be Non-Responsive were
4 reclassified as "Not Able to be Located" after it was determined by FG/MA that the
5 contact information on file was not correct.

6 **II.**

7 FG/MA believes that it is very close to exhausting its efforts to locate, contact and
8 obtain decisions from the remaining 200 plaintiffs. Given the Court's decision in Case
9 Management Order No. 48 to impose a March 15, 2021 dismissal deadline for certain
10 other cases, FG/MA would propose that they also be allowed until March 15, 2021 to
11 continue their efforts to locate, contact and secure settlement decisions from the remaining
12 200 plaintiffs -- particularly those that have been newly located and are currently
13 considering the settlement. FG/MA would propose that a status conference be scheduled
14 on or shortly after March 15, 2021 at which time FG/MA anticipates being able to provide
15 the Court with a final list of cases for reinstatement and transfer or remand.
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18 RESPECTFULLY SUBMITTED this 26th day of January, 2020.
19

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I hereby certify that on this 31th day of January, 2021, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ David P. Matthews

David P. Matthews